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6/29/01

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA **FILED**
HARRISBURG, PA

JUN 28 2001

ENRIQUE HENRY GARZA,

Petitioner

MARY E. D'ANDREA, CLERK
Per MMF
Deputy Clerk

v.

CIVIL NO. 3:CV-01-1128

DONALD ROMINE, WARDEN,
ET AL.,

(Judge Rambo)

Respondents

ORDER

On June 22, 2001, the petitioner filed a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition presents grounds attacking his conviction or the sentence imposed or both. The sentence was imposed by the United States District Court for the Middle District of Florida. In accordance with United States vs. Miller, 197 F.3d 644 (3d Cir. 1999), the petitioner is advised that (1) he can have the petition ruled on as filed, (2) have his petition re-characterized as a § 2255 petition for writ of habeas corpus and heard as such, in which case he would need to seek authorization from the Eleventh Circuit Court of Appeals to file a second or successive petition, or (3) withdraw his petition and file one all-inclusive § 2255 petition within the one-year statutory period prescribed by the Antiterrorism Effective Death Penalty Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Petitioner shall within 45 days of the date of this order complete and file with the court the attached Notice of Election.

2. Failure of petitioner to comply with this order will result in the court ruling on the motion, document or pleading as captioned.



SYLVIA H. RAMBO
United States District Judge

Dated: June 28, 2001.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ENRIQUE HENRY GARZA,

Petitioner

v.

CIVIL NO. 3:CV-01-1128

**DONALD ROMINE, WARDEN,
ET AL.,**

(Judge Rambo)

Respondents

NOTICE OF ELECTION

I, Enrique Garza, petitioner in the above-captioned action, have read the Order of Court which accompanied this form notice. Pursuant to that order, I elect to proceed in this action as follows:

Option 1. - The Court should rule on my case as filed.

Option 2. - Recharacterize and treat my case as a proceeding under 28 U.S.C. §2255. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of Appeals for the Eleventh Circuit.

Option 3. - I wish to withdraw my petition which was filed under 28 U.S.C. §2241 and file one all-inclusive petition; that is one that raises all the grounds I have. I realize this all-inclusive petition must be filed within the one year period as defined by 28 U.S.C. §2244(d).

Date: _____

Enrique Garza, Petitioner

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

June 28, 2001

Re: 1:01-cv-01128 Garza v. Romine

True and correct copies of the attached were mailed by the clerk to the following:

Enrique Henry Garza
USP-LEW
U.S. Penitentiary at Lewisburg
18258-018
P.O. Box 1000
Lewisburg, PA 17837

cc:

Judge	(X)	(X) Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: June 28th, 2001

BY:


Deputy Clerk